

REMARKS

The comments of the Applicant below are each preceded by related comments of the Examiner (in small, bold type).

Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear what is meant by "the force exerts a trust on the load" in claim 1 and "the elastic device being in a plan different from a plan of the panel" in claim 2.

Claims 1 and 2 have been amended.

Claims 1, 3 and 4 are rejected under 35 U.S.C. 1 02(b) as being anticipated by Herrstrom (4,737,048).

Regarding claim 1, Herrstrom discloses (Currently Amended) A displacement device for a repositionable load that is submitted to the thrust of a force, comprising at least one support arm (36, 37) being linked at one extremity with an elastic mounting device (50-53) whose opposite extremity is interdependent with a removable repositionable fastening device on the load (54, 56, 58, 60), aforesaid support arm being driven into displacement by a driving device, said device being such that when the force exerts a trust on the load, at least one elastic mounting device undergoes a compression and at least one elastic mounting device undergoes an extension, while temporarily steadying the interdependent load with aforesaid displacement device (see Fig. 1).

Claim 1

Herrstrom does not describe and would not have made obvious "at least a first support arm and a second support arm, each support arm having a first end coupled to the load, the support arm extending in a direction away from the load, and the support arm having a second end that is coupled to an elastic mounting device whose opposite end is interdependent with a removable repositionable fastening device," as recited in amended claim 1.

Herrstrom discloses a road sign attachment and repair apparatus having first and second U-shaped brackets adapted to be attached to a wooden sign post near the bottom of the post to form a resilient joint (Abstract). Four coil springs are attached to a first base plate 15 of a first U-shaped bracket 14 and to a second base plate 35 of a second U-shaped bracket 34 (Fig. 9 and

col. 2, lines 31-47). The first U-shaped bracket 14 has planar side plates 16, 17 having openings 24, 25 for allowing a threaded nut and bolt fastener 26 to hold the first U-shaped bracket 14 securely to a post portion 11 that is embedded in the ground (col. 3, lines 6-12). The second U-shaped bracket 34 has planar side plates 36, 37 having openings 44, 45 for allowing a threaded nut and bolt fastener 46 to securely attach the second U-shaped bracket 34 to the bottom of a top post 12 (col. 3, lines 12-19).

The Examiner appears to contend that the planar side plates 36, 37 of the second U-shaped bracket 34 in Herrstrom correspond to the support arms of claim 1. Applicant notes that the side plates 36, 37 of Herrstrom are flush with the surfaces of the post 12. Herrstrom does not disclose or suggest that the side plate 36 (or 37) has a first end coupled to the post 12, that the side plate 36 (or 37) extends in a direction away from the post 12, and that the side plate 36 (or 37) has a second end that is coupled to an elastic mounting device.

Claim 1 is patentable for at least the above reasons.

Claim 2

Claim 2 is patentable for at least similar reasons as those applied to claim 1.

Claims 2, 5-10, 13, and 19-20 are rejected under 35 U.S.C. 1 03(a) as being unpatentable over Herrstrom (4,737,048).

Regarding claim 5, Herrstrom does not disclose the three elastic devices comprise a piston-cylinder system (claim 5), and the removable repositionable fastening device comprises magnets (claim 6), or a suction cup (claim 7), and the support is mobile (claim 13).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a piston-cylinder system instead of springs, use magnets or suction cup instead of screws, since it was known in the art that piston-cylinder systems are commonly used as elastic devices, and magnet and suction cups for fastening devices.

Claims 6 and 7

Herrstrom does not describe and would not have made obvious "the removable repositionable fastening device comprises magnets," as recited in claim 6, and "the removable repositionable fastening device comprises a suction cup," as recited in claim 7.

Herrstrom states that the invention is to provide a resilient structure which will prevent wooden sign posts from breaking by forming a resilient joint which allows a vehicle to push the sign post and causes the sign post to return to an upright position when the vehicle is no longer in contact with the sign post (col. 1, lines 54-59). In Herrstrom, threaded nuts and bolt fasteners secure the U-brackets 14 and 34 to the lower portion and upper portion, respectively, of the sign post. A person of ordinary skill in the art would not have modified Herrstrom's device by replacing the threaded nuts and bolt fasteners with magnets or suction cups because when the sign post is pushed by a vehicle, the magnets or suction cups may detach and cause the upper portion of the sign post to separate from the lower portion embedded in the ground, and the sign post may not return to an upright position when the vehicle is no longer in contact with the sign post.

MPEP 2143.01 (V) states that the proposed modification cannot render the prior art unsatisfactory for its intended purpose. Replacing the threaded nuts and bolt fasteners in Herrstrom's apparatus with magnets or suction cups will render the Herrstrom's apparatus unsatisfactory for its intended purpose.

Claims 6 and 7 are patentable for at least the above reasons.

All of the dependent claims are patentable for at least the reasons for which the claims on which they depend are patentable.

Canceled claims have been canceled without prejudice.

Any circumstance in which the applicant has addressed certain comments of the examiner does not mean that the applicant concedes other comments of the examiner. Any circumstance in which the applicant has made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims. Any circumstance in which the applicant has amended or canceled a claim does not mean that the applicant concedes any of the examiner's positions with respect to that claim or other claims.

Applicant : Serge Jose Do Carmo
Serial No. : 10/596,772
Filed : June 27, 2007
Page : 9 of 9

Attorney's Docket No.: 21203-0002US1

Please apply \$\$555 for the Petition for Extension of Time fee and any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: November 10, 2010_____

/Rex I. Huang/_____
Rex I. Huang
Reg. No. 57,661

Customer Number 26161
Fish & Richardson P.C.
Telephone: (617) 542-5070
Facsimile: (877) 769-7945